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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,258	03/26/2004	Michael R. Hynes	L-F / 227	1651
26875 7590 01/10/2008 WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			EXAMINER MACNEILL, ELIZABETH	
			ART UNIT 3767	PAPER NUMBER
			MAIL DATE 01/10/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/811,258  
Filing Date: March 26, 2004  
Appellant(s): HYNES, MICHAEL R.

MAILED  
JAN 10, 2008  
Group 3760

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Thomas Humphrey  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 26 November 2007 appealing from the Office action mailed 1 March 2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,531,708 to Woodruff.

Woodruff discloses a syringe having a shaft 14 including a scale 18, stop 20, threads 26, thumb rest 22, barrel 4 and flange 30. See Figures 1-9.

**(10) Response to Argument**

Applicant has argued that because the scale of Woodruff is attached to the stop, the stop is not located along the shaft using the scale. See Abstract, "the scale is adjustable for selecting dosages to be discharged." Furthermore, the limitation that the stop is moveable relative to the scale is not claimed. The stop must only be "located using the scale." The stop is moved up and down along the shaft (by threading) to select the desired dosage. See Col 3 at line 10, "A preselected dosage of material to be administered by the container is set by moving the slide element (and thus the scale) to a position on the plunger..." The slide and scale of Woodruff clearly meet the claimed limitations.

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**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Elizabeth MacNeill



Conferees:

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SUPERVISORY PATENT EXAMINER



Tom Barrett

TC 3700 TQ 45